

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

<b>REGISTRANT:</b> Kuykendal et al.	<b>GAU:</b> 3641
<b>PATENT NO.:</b> 6,308,610	<b>EXAMINER:</b> Jordan, Charles T.
<b>ISSUED:</b> Oct. 30, 2001	<b>St. Louis, Missouri</b>
<b>FOR:</b> Liquid Cannon Having Trunnion Assembly	<b>Date:</b> July 26, 2010
	<b>DN:</b> WW-8

Commissioner for Patents  
MS-Petitions  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**CHANGE OF ADDRESS NOTICE**

Sir:

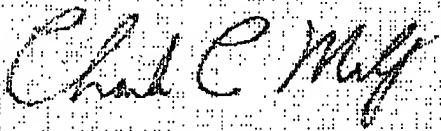
This Notice is to inform the Office of a change of address for the undersigned regarding a Petition requesting reconsideration of the dismissal of the previous Petition to reinstate U. S. Pat. No. 6,308,610, upon a Liquid Cannon Having Trunnion Assembly.

The new address is:

Charles C. McCloskey  
13321 N. Outer 40 Rd. Ste. 100  
Town & Country, MO 63017

Please make note of the new address for mailed correspondence regarding this Petition.

Respectfully Submitted,



Charles C. McCloskey  
Attorney  
Pat. Off. Reg. No. 46,911  
13321 N. Outer 40 Rd. Ste. 100  
Town & Country, MO 63017  
(636) 527-9962

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

<b>REGISTRANT:</b> Kuykendal et al.	<b>GAU:</b> 3641
<b>PATENT NO.:</b> 6,308,610	<b>EXAMINER:</b> Jordan, Charles T.
<b>ISSUED:</b> Oct. 30, 2001	<b>St. Louis, Missouri</b>
<b>FOR:</b> Liquid Cannon Having Trunnion Assembly	<b>Date:</b> May 24, 2010
	<b>DN:</b> WW-8

Commissioner for Patents  
MS-Petitions  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**RESPONSE TO LETTER REGARDING**  
**PETITION FOR RECONSIDERATION**

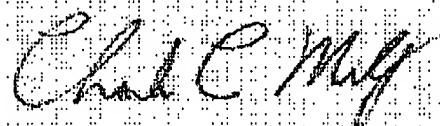
Sir:

This response replies to the Letter dated April 28, 2010 regarding a Petition requesting reconsideration of the dismissal of the previous Petition to reinstate U. S. Pat. No. 6,308,610, upon a Liquid Cannon Having Trunnion Assembly. The Letter of April 28 indicated a petition fee of \$400 was not received on or about May 22, 2009.

We understand the Petitions Office has an active docket with many cases. Kindly find our receipt from May 22, 2009 as appendix to this response. The receipt indicates \$400 was submitted on May 22, 2009 for this Petition requesting reconsideration. The receipt indicates submission of the fee through the Office's RAM system with a RAM confirmation number of 3248.

Review on the merits of the Petition for reconsideration is respectfully requested.

Respectfully Submitted,



Charles C. McCloskey  
Attorney  
Pat. Off. Reg. No. 46,911  
763 South New Ballas Rd. Ste. 305  
St. Louis, MO 63141  
(314) 872-8136

**Acknowledgement Receipt**

The USPTO has received your submission at 17:25:39 Eastern Time on 22-MAY-2009.

\$ 400 fee paid by e-Filer via RAM with Confirmation Number: 3248.

**eFiled Application Information**

EFS ID	5387671
Application Number	09173423
Confirmation Number	1813
Title	LIQUID CANNON HAVING TRUNNION ASSEMBLY
First Named Inventor	RONALD S. DEICHMANN
Customer Number or Correspondence Address	HENRY W CUMMINGS 3313 W ADAMS ST ST CHARLES MO 63301 US
Filed By	Charles McCloskey
Attorney Docket Number	WW-8
Filing Date	15-OCT-1998
Receipt Date	22-MAY-2009
Application Type	Utility under 35 USC 111(a)

**Application Details**

Submitted Files	Page Count	Document Description	File Size	Warnings
DN280x_petition_to_request_reconsideration.pdf	4	Petition for review by the Office of Petitions.	77860 bytes	◆ PASS
dn280x_power_of_attorney.pdf	1	Power of Attorney	22018 bytes	◆ PASS
DN280x_affidavit.pdf	2	Miscellaneous Incoming Letter	2286718 bytes	◆ PASS
DN280x_exhibit_D.pdf	1	Miscellaneous Incoming Letter	11851 bytes	◆ PASS
DN280x_exhibit_E.pdf	1	Miscellaneous Incoming Letter	26215 bytes	◆ PASS
DN280x_exhibit_Eprime.pdf	1	Miscellaneous Incoming Letter	10194 bytes	◆ PASS
DN280x_exhibit_F.pdf	1	Miscellaneous Incoming Letter	29391 bytes	◆ PASS
DN280x_exhibit_G.pdf	1	Miscellaneous Incoming Letter	23302 bytes	◆ PASS
DN280x_exhibit_H.pdf	1	Miscellaneous Incoming Letter	21755 bytes	◆ PASS
DN280x_exhibit_I.pdf	5	Miscellaneous Incoming Letter	7412900 bytes	◆ PASS
DN280x_exhibit_J.pdf	3	Miscellaneous Incoming Letter	4128635 bytes	◆ PASS
fee-info.pdf	2	Fee Worksheet (PTO-875)	30616 bytes	◆ PASS



## UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

CHARLES MCCLOSKEY

763 S. New Ballas Road  
Suite 170  
St. Louis, MO 63141

In re Patent No. 6,308,610  
Issue Date: October 30, 2001  
Application No. 09/173,423  
Filed: October 15, 1998  
For: LIQUID CANNON HAVING  
TRUNNION ASSEMBLY  
Patentee: Stewart

LETTER

MAILED  
APR 28 2010  
OFFICE OF PETITIONS

This is a decision on the petition under 37 CFR 1.378(e), filed May 22, 2009, to accept an unavoidably delayed payment of a maintenance fee for the above-identified patent.

The instant request for reconsideration has not been reviewed on the merits because it lacks the required petition fee of \$400.00.

If petitioners wish to seek reinstatement of the instant patent, pursuant to 37 CFR 1.378(e), the required petition fee of \$400.00 must be submitted. Petitioners are given **TWO MONTHS** from the mail date of the instant letter to submit the required petition fee. The time period for submission of the petition fee of \$400.00 is not subject to further extension under 37 CFR 1.136.

Telephone inquiries concerning this matter may be directed to the undersigned at 571-272-3205.

/ALESIA M. BROWN/

Alesia M. Brown  
Petitions Attorney  
Office of Petitions

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**REGISTRANT:** Deichmann et al.  
**PATENT NO.:** 6,308,610  
**ISSUED:** Oct. 30, 2001  
**FOR:** Liquid Cannon Having  
Trunnion Assembly

**GAU:** 3641  
**EXAMINER:** Jordan, Charles T.  
St. Louis, Missouri  
**Date:** June 3, 2008  
**DN:** WW-8

I hereby certify that this correspondence is being deposited with the  
U.S. Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on

*EE Muller*

*6/3/08*

Date of Signature

Commissioner for Patents  
MS-Petitions  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**PETITION TO ACCEPT DELAYED PAYMENT OF**  
**MAINTENANCE FEE IN EXPIRED PATENT UNDER § 1.378(b)**

Sir:

The Petitioner herein requests that United States Patent Number 6,308,610, upon a Liquid Cannon Having Trunnion Assembly, be reinstated as a United States patent. This request is for acceptance of the delayed payment of the first maintenance fee due upon this patent, under unavoidably delayed payment circumstances, under 37 CFR § 1.378(b).

When the first maintenance fee was due in 2005, the Patentees were represented by the attorney of record for this patent. On or about Sep. 2007, the undersigned attorney was contacted by the family of the attorney of record for this patent. The family of the attorney of record indicated that the attorney of record had and continues to experience unforeseen medical circumstances that made it impossible for him to remind the Patentees to make payment of the maintenance fee due for this particular patent.

The undersigned attorney conducted an inventory of the files of the attorney of record in fall and winter 2007. On or about November 5, 2007, the undersigned attorney wrote to the Patentees about unrelated documents found during the inventory, see Ex. A. On or about Jan. 3, 2008, the Patentees contacted the undersigned to arrange a meeting on Jan. 8, 2008, see Ex. B. During the meeting, Patentee Kuykendal related that he holds multiple patents. The undersigned attorney then researched Patentee Kuykendal's patents and found that this patent, No. 6,308,610, had expired. On or about Jan. 21, 2008, the undersigned attorney notified Patentee Kuykendal about the expired patent and requested instructions about reinstating this patent. On or about Apr. 25, 2008, the undersigned attorney inquired again from Patentee Kuykendal about instructions for reinstating this patent, see Ex. C. On or about May 5, 2008, the instructions and funds for reinstating this Patent arrived from Patentee Kuykendal. Following drafting of Patentee Kuykendal's latest application, No. 12/126159, filed on May 23, 2008, the undersigned has resumed work on the petition to reinstate this patent.

The undersigned attorney asserts that the delay in paying this maintenance fee was unavoidable as attorney of record's circumstances unforeseeably impeded maintenance fee tracking for the Patentees, and this petition was filed promptly after the Patentees met with the undersigned attorney who subsequently discovered the unpaid maintenance fee and who then reminded the Patentees as described above.

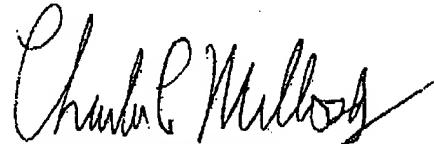
Enclosed is the required maintenance fee in the amount of \$530 including \$65 surcharge for paying in the grace period, as required under 37 CFR §§ 1.20(e, h).

Further enclosed is the surcharge in the amount of \$700 by client check and \$70 by firm check for a total of \$770, as required for the late unavoidable payment of a maintenance fee, as required under 37 CFR § 1.20(i)(1).

This delayed payment of the maintenance fee, for this expired patent, is herein being filed by an attorney registered to practice before the Office.

The undersigned, being an attorney registered to practice before the Office, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §101, and that such willful false statements may jeopardize the validity of this petition or any resulting registration, declares that the facts set forth in this renewed petition are true; all statements made on his own knowledge are true; and that all statements made on information and belief are believed to be true.

Respectfully Submitted,



Charles C. McCloskey  
Attorney  
Pat. Off. Reg. No. 46,911  
763 South New Ballas Rd. Ste. 170  
St. Louis, MO 63141  
(314) 872-8136

Enclosure

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**REGISTRANT:** Kuykendal et al.  
**PATENT NO.:** 6,308,610  
**ISSUED:** Oct. 30, 2001  
**FOR:** Liquid Cannon Having  
Trunnion Assembly

**GAU:** 3641  
**EXAMINER:** Jordan, Charles T.  
St. Louis, Missouri  
**Date:** May 22, 2009  
**DN:** WW-8

Commissioner for Patents  
MS-Petitions  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**PETITION FOR RECONSIDERATION OF A DISMISSED PETITION TO**  
**ACCEPT UNAVOIDABLY DELAYED PAYMENT OF MAINTENANCE FEE**  
**IN EXPIRED PATENT UNDER CFR § 1.378(E)**

Sir:

This Petition requests reconsideration of the dismissal of the previous Petition to reinstate United States Patent Number 6,308,610, upon a Liquid Cannon Having Trunnion Assembly. This petition for reconsideration is filed pursuant to 37 CFR § 1.378(e) and a fee of \$400 is submitted. The previous petition was for acceptance of the delayed payment of the first maintenance fee due upon this patent as unavoidably delayed under 37 CFR § 1.378(b).

On or before October 1998, the Patentee engaged Mr. Henry Cummings, patent attorney, to prosecute the application on Patentees' behalf that became patent No. 6,308,610, see Affidavit of Robert Kuykendal, para. 2, hereinafter Affidavit. In due course, on or about November 2001, the Patentees received the bound and ribboned patent No. 6,308,610 from Mr. Cummings, see Affidavit para. 3. From correspondence sent with the bound and ribboned patent No. 6,308,610, Mr. Cummings offered to track the maintenance fee due dates for this patent, see Affidavit para 4. The Patentees accepted Mr. Cummings' offer to track the maintenance fee due date for this patent.

The Patentees acknowledge that they continued to correspond with Mr. Cummings on various later inventions and had various written and oral communications with Mr. Cummings from 2001 through 2006, see Affidavit para 5. In time, the Patentees particularly engaged and obligated Mr. Cummings to track the maintenance fee due date on or after January 2, 2005 before the expiration of this patent No. 6,308,610, see Affidavit para. 6.

As prudent businessmen, the Patentees engaged an agent, Mr. Cummings, to mind important business including maintenance fee due dates, see Affidavit para. 7. From time to time, the Patentees inquired and monitored the maintenance fee due date through the Patentees' agent Mr. Cummings, see Affidavit para. 8. When the first maintenance fee was due in 2005, the Patentees were represented by Mr. Cummings who had prosecuted the application that became this patent. More particularly, on or about January 2006, the Patentees received a request from Mr. Cummings for a check in the amount of the maintenance fee due and that such a check was provided by the Patentees at the end of that month, see Affidavit para. 9.

On or after February 2006, the Patentees do not recall hearing from Mr. Cummings about any discrepancies with the maintenance fee, see Affidavit para. 10. The Patentees thus relied upon their attorney Mr. Cummings to track and then to submit the maintenance fee for this patent. Unfortunately, on or about April 24, 2007, the family of Mr. Cummings notified Patentee Kuykendal of the closure of his practice, see Exhibit D.

On or about Sep. 2007, the Petitioner was contacted by the family of Mr. Cummings, the then attorney of record for this patent. The family of Mr. Cummings indicated that he had and continues to experience unforeseen medical circumstances that made it impossible for him to properly submit on behalf of the Patentees the maintenance fee due for this particular patent.

Upon further investigation, Mr. Cummings has had dementia from Alzheimer's disease since at least November 2005, see Exhibit E. Dr. Binder wrote that Mr. Cummings had poor judgment in relation to the details of bill

paying and short term memory loss, *Id.* Dr. Binder's contact information is provided as Exhibit E'. Shortly after the initial diagnosis, Dr. Williams took notes during a family conference on December 7, 2005 where Mr. Cummings' memory problems were described as exceeding those typical for his age, see Exhibit F. Then Dr. Villareal noted that Mr. Cummings ought not drive a motor vehicle and lacks insight into his current activities in the conference notes of October 17, 2006, see Exhibit G. Dr. Villareal's contact information is also provided upon Exhibit E'. On or about April 8, 2008, Dr. Piening also wrote of Mr. Cummings' condition as making him unaware of his limitations in judgment and short term memory, see Exhibit H.

Meanwhile, on or before October 3, 2006, the Office of Enrollment and Discipline opened an investigation of Mr. Cummings for submission of incorrect filing fees during the period of January 5, 2006 through May 18, 2006, see Exhibit I. In time, Mr. Cummings consented to withdrawing from practice before the Patent Office on or after August 21, 2008 to close the investigation, see Exhibit J.

On or about November 5, 2007, Patentee Kuykendal received a letter from Mr. Charles McCloskey, patent attorney, now Petitioner, regarding the closure of Mr. Cummings practice, see Affidavit para. 10a. Next, Patentee Kuykendal met with Mr. McCloskey on or about January 8, 2008, to discuss the status of his patents, new inventions, and this patent, see Affidavit para. 11. Patentee Kuykendal then received a letter from Mr. McCloskey regarding petitioning to reinstate patent No. 6,308,610 on or about January 21, 2008, see Affidavit para. 12.

On or about Apr. 25, 2008, the Petitioner inquired again from Patentee Kuykendal about instructions for reinstating this patent and soon thereafter on or about May 5, 2008, the instructions and funds for reinstating this Patent arrived from Patentee Kuykendal. Then the Petition was filed on June 3, 2008, under 37 CFR § 1.378(b), to reinstate United States Patent Number 6,308,610, upon a

Liquid Cannon Having Trunnion Assembly for acceptance of the delayed payment of the first maintenance fee due as unavoidably delayed.

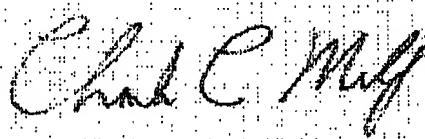
Once more the Petitioner asserts that the delay in paying this maintenance fee was unavoidable as the previous attorney of record's decline in mental faculties, as described above, unavoidably impeded tracking of the maintenance fee and delayed payment of the maintenance fee for this patent by one engaged by the Patentees to track and to submit the maintenance fee. This Petition was filed within the two month window to request reconsideration of the previous Petition.

The Patentees have previously provided the maintenance fee in the amount of \$530 including \$65 surcharge for paying in the grace period and the unavoidable delay surcharge in the amount of \$700 by client check and \$70 by firm check for a total of \$770. A Petition fee of \$400 is submitted with this Petition for reconsideration.

The Patentees have provided an executed power of attorney appointing the undersigned as attorney of record for this patent going forward.

The undersigned attorney as Petitioner, on behalf of the Patentees, herein requests acceptance by the Office of the unavoidably delayed payment of the maintenance fee for patent No. 6,308,610 and granting of this Petition for reconsideration.

Respectfully Submitted,



Charles C. McCloskey  
Attorney  
Pat. Off. Reg. No. 46,911  
763 South New Ballas Rd. Ste. 170  
St. Louis, MO 63141  
(314) 872-8136

Enclosure



## UNITED STATES PATENT AND TRADEMARK OFFICE

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CHARLES MCCLOSKEY  
 763 S. New Ballas Road  
 Suite 170  
 St. Louis, MO 63141

In re Patent No. 6,308,610  
 Issue Date: October 30, 2001  
 Application No. 09/173,423  
 Filed: October 15, 1998  
 For: LIQUID CANNON HAVING  
 TRUNNION ASSEMBLY  
 Pattee: Stewart

MAILED

MAR 23 2009

OFFICE OF PETITIONS

DECISION ON PETITION  
 UNDER 37 CFR 1.378(b)

This is a decision on the petition under 37 CFR 1.378(b), filed June 5, 2008, to accept an unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

The patent issued October 30, 2001. The first maintenance fee could have been paid from October 30, 2004, through April 30, 2005, or with a surcharge during the period from May 1, 2005 through October 30, 2005. Accordingly, the patent expired at midnight on October 31, 2005, for failure to timely submit the second maintenance fee.

On February 13, 2006, a maintenance fee transmittal form, a copy of the Notice of Patent Expiration, and a check in the amount of \$1,640.00 was filed by Henry W. Cummings. A letter concerning this submission was mailed to Mr. Cummings on April 10, 2006. The letter advised Mr. Cummings how to seek reinstatement of the above-identified patent and included petition forms and a fee schedule. Absent a response to this letter, the \$1,640.00 was refunded to Mr. Cummings by treasury check on December 8, 2006.

A petition to accept the delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of,

Patent No. 6,308,610

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the expiration of the patent, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1).

This petition lacks item requirement (1) set forth above.

The Director may accept late payment of the maintenance fee if the delay is shown to the satisfaction of the Director to have been "unavoidable". 35 U.S.C. § 41(c)(1).

Petitioner alleges that the submission of the maintenance fee was unavoidably delayed because the "attorney of record's circumstances unforeseeably impeded maintenance fee tracking for the Patentees." Petitioner further states that on or about September 2007, the family of the attorney of record, Mr. Cummings, advised petitioner that Mr. Cummings "had and continues to experience unforeseen medical circumstances that made it impossible for him to remind the Patentees to make payment of the maintenance fee due for this particular patent."

The "unforeseen medical circumstances are not described in detail within the petition, nor is the petition supported by any documentary evidence of a medical condition.

Accordingly, the showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.378(b)(3).

Acceptance of late payment of a maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 U.S.C. § 133 because 35 U.S.C. § 41(c)(1) uses the identical language, i.e. "unavoidable delay". Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995)(quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988)). Decisions on reviving abandoned applications have adopted the "reasonably prudent person" standard in determining if the delay in responding to an Office action was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-515 (D.C. Cir. 1912); and Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141. In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

In essence, patentees must show that they were aware of the need to pay the maintenance fee, and to that end was tracking it, or had engaged someone to track it before the expiration, but when the fee came due, was "unavoidably" prevented from making the maintenance fee payment due to medical problems until the petition was filed. The petition lacks any statements from patentees concerning the delay in timely submission of the maintenance fee.

In determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a

Patent No. 6,308,610

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reasonably prudent person. Ray, 55 F3d at 608-609, 34 USPQ2D at 1787. It is incumbent upon the patent owner to implement steps to schedule and pay the fee, or obligate another to do so. See California Medical Products v. Technol. Med. Prod., 921 F.Supp 1219, 1259 (D. Del. 1995). That is, 37 CFR 1.378(b)(3) requires a showing of the steps in place to pay the maintenance fee, and the record currently lacks a showing that any steps were emplaced by petitioner or anyone else. In the absence of a showing that patentees or anyone else was engaged in tracking the maintenance fee due dates, and that party had in fact been tracking the due dates with a reliable tracking system, such as would be used by prudent and careful men in relation to their most important business, petitioner cannot reasonably show that the delay was unavoidable delay. In re Katrapat, 6 USPQ2d 1863, 1867-1868 (Comm'r Pat. 1988); California, supra. Put otherwise, the issues of Mr. Cummings "unforeseen medical circumstances" are immaterial in the absence of a showing that these, and not the lack of any steps in place to pay the fee, caused or contributed to the delay.

Petitioner has not provided any evidence, such as documents from licensed health care providers, demonstrating the nature and extent of Mr. Cummings's medical condition to establish that Mr. Cummings, who remains attorney of record in this patent, was, from the date of expiry until the filing of a grantable petition, "unavoidably" prevented from taking any earlier action with respect to this patent. Additionally, petitioner has failed to establish how Mr. Cummings managed to conduct his daily personal and business affairs, such as scheduling and settlement of short and long term debts and business obligations, bills, rent or mortgage payments, income taxes etc., during the time in question. Petitioner has failed to demonstrate that the health problems attributed to Mr. Cummings were such as to cause the payment of the maintenance fee to have been unavoidably delayed.

Ultimately patentees bear the responsibility for timely remittance of the maintenance fee. The petition fails to establish that patentees were unavoidably delayed in making the payment. Accordingly, the Office is precluded from accepting the \$1,300.00 submitted with the instant petition. If reconsideration of this decision is not desired, petitioner may request a refund of this fee by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

Review of the record does not establish that petitioner, Mr. McCloskey, has been empowered to represent patentees. If petitioner desires to receive future correspondence concerning this patent, the appropriate power of attorney/change of correspondence address documents should be promptly filed. While this decision is being mailed to Mr. McCloskey at an address other than that contained in the record, petitioner is advised that all future correspondence concerning this patent will be directed to the correspondence address contained in the record until appropriate instruction to the contrary is received.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS  
Commissioner for Patents  
Post Office Box 1450  
Alexandria, VA 22313-1450

Patent No. 6,308,610

Page 4

By hand: Customer Service Window  
Mail Stop Petitions  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

By fax: (571) 273-8300  
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3205.

*/ALESIA M. BROWN/*

Alesia M. Brown  
Petitions Attorney  
Office of Petitions